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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,072	11/19/2003	Roger Wozniacki	2066/40609	7248

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EXAMINER

JOHNSON, JERROLD D

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/717,072

Applicant(s)

WOZNIACKI, ROGER

Examiner

Jerrold Johnson

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) 25-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-59 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>26 Feb. 2004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 25-59 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Drawings

Figures 1A and 1B should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 and 13 both are drawn to the subcombination of a spacer. The second to the last line of both of these claims sets forth "products" as though the "products" are positively set forth in a combination. This is improper as the products are merely set forth in the preamble with respect to the intended use of the spacer. Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Perry et al. US 2,583,443.

Perry discloses spacers in Figs. 1-7 which comprise a plurality (between 6 and 8) of sheets of paperboard material secured together (laminated on top of one another)

Art Unit: 3728

with adhesive (cement Col. 2 line 41) defining a plurality of peak (first curved) and valley (second curved) portions in a wave like configuration. The first and second curved portions are connected by a generally elongate leg portion (straight section between the curves).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry et al. US 2,583,443 and Examiner Official Notice.

Perry does not disclose the orientation of grain fibers set forth in claim 4; the exact dimensions of claim 9; the strength requirement of the spacers of claim 10; or the weight of the spacers of claim 12.

With respect to claim 4, the proper orientation of grain fibers in high strength paperboard products is well known, and the Examiner takes Official Notice of this fact. Specifically, paperboard products are known to be made such that the grains are aligned with the compressive forces on the product. Carter et al. US 4,391,202 provides extrinsic evidence of the importance of grain direction in such a product. Carter shows the grains G aligned with the compressive forces.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the spacers of Perry with the grain fiber orientation as set forth in claim 4 so that the grains are aligned with the compressive forces and that the spacer will not buckle under load.

With respect to claims 9, 10, and 12 it is within the purview of one of ordinary skill in the art to optimize the dimensions, strength characteristics and weight of the spacers so that the spacers are suitable for the loads that will be supported up them. Accordingly one of ordinary skill in the art would know to manufacture the spacers in accordance with the specific environment within which it would be used.

With respect to claim 11, the spacers would be nestable with other spacers prior to attachment to a panel.

3. Claims 13-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Briggs et al. US 3,982,057 and Official Notice.

As set forth above Perry discloses spacers suitable for the intended purposes set forth.

Perry discloses the use of several first spacers, but Perry does not disclose a second spacer attached to the first spacer.

Briggs teaches that wave like spacer segments constructed from paperboard (Kraft paper) can be adhered (glue 11) together to produce a structure having high strength characteristics.

Accordingly, it would have been obvious to one of ordinary skill in the art to modify the single wave-like spacer element of Perry to include a second spacer

Art Unit: 3728

segment adhered to the first spacer segment so as to produce a higher strength spacer than a spacer with a single spacer segment.

With respect to claims 14-24 see the rejection of claims 2-12.

4. Claims 1-8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menchetti et al. US 5,722,626 in view of Carter et al. US 4,391,202.

Menchetti discloses nestable spacer elements as claimed and also discloses in col. 6 lines 48-60 that the spacer element may comprise a laminate structure.

Carter discloses how spacers can be formed from multiple (5-15) layers of paperboard adhered together with the grain pattern being chosen with respect to the loads that will be carried.

Accordingly, it would have been obvious to one of ordinary skill in the art to modify the spacers of Menchetti with the teachings of Carter so as to produce a high strength spacer capable of the intended uses set forth in the claims.

5. Claims 9,10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menchetti et al. US 5,722,626 in view of Carter et al. US 4,391,202 and Examiner Official Notice.

With respect to claims 9,10, and 12 it is within the purview of one of ordinary skill in the art to optimize the dimensions, strength characteristics and weight of the spacers so that the spacers are suitable for the loads that will be supported up them.

Accordingly one of ordinary skill in the art would know to manufacture the spacers in

Art Unit: 3728

accordance with the specific environment within which it would be used. Clearly the spacers of Menchetti are designed for the same intended purpose as set forth in the claims.

6. Claims 13-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menchetti et al. US 5,722,626 in view of Carter et al. US 4,391,202, Examiner Official Notice, and Briggs et al US 3,982,057.

Menchetti et al. US 5,722,626 in view of Carter et al. US 4,391,202, Examiner Official Notice does not disclose a second spacer segment adhered to a first spacer segment.

Again, Briggs teaches that wave like spacer segments constructed from paperboard (Kraft paper) can be adhered (glue 11) together to produce a structure having high strength characteristics.

Accordingly, it would have been obvious to one of ordinary skill in the art to modify the single wave-like spacer element of Menchetti et al. US 5,722,626 in view of Carter et al. US 4,391,202, Examiner Official Notice to include a second spacer segment adhered to the first spacer segment so as to produce a higher strength spacer than a spacer with a single spacer segment.

With respect to claims 14-24 see the rejection of claims 2-12 (No. 5).

Art Unit: 3728

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDJ



Mickey Yu
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Group 3700